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BEFORE THE DEPARTMENT OF HEALTH
STATE OF CALIFORNIA

RECEIVED SACRAMENTO
BOARD OF MEDICAL
QUALITY ASSURANCE
SEP 13 8 17 AM '77

In the Matter of the Accusation
Against:

OWEN KWONG, M.D.
Medi-Cal Provider No. OOC 172570,
Respondent.

NO. 77-32

L-14257

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Department of Health as its decision in the above-entitled matter.

This Decision shall become effective on the 30th day of September, 1977.

IT IS SO ORDERED this 8 day of September, 1977.

DEPARTMENT OF HEALTH
STATE OF CALIFORNIA

By

R.K. Procunier
Chief Deputy Director

mh

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In the Matter of the Accusation
Against:

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Respondent.

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PROPOSED DECISION

This matter came on regularly for hearing before William Green, an Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on June 30, 1977, at the hour of 9:00 a.m. William L. Marcus, Deputy Attorney General, appeared on behalf of the complainant. Respondent appeared in person and was represented by Thomas M. McGurkin, Attorney at Law. This matter was heard on a consolidated record with the matter entitled "In the Matter of the Accusation Against Owen Kwong, M.D., License No. C 17257" before the Division of Medical Quality Assurance in its proceeding No. D-1912, Office of Administrative Hearings file No. L-13335. Exhibit 2 on behalf of the complainant and Exhibits A through G on behalf of the respondent were forwarded with the Proposed Decision in that matter. Oral and documentary evidence was introduced, written notice of hearing in this matter having been waived. The following facts are found:

I

Quin Denvir made the Accusation herein in his official capacity as the Deputy Director of the Office of Legal Affairs of the Department of Health of the State of California.

II

At all times mentioned herein respondent possessed a Physician's and Surgeon's Certificate No. C 17257 issued by the Board of Medical Examiners (predecessor to the Board of Medical Quality Assurance). The principal office address of respondent

is 1029 Broadway, Los Angeles, California. Said certificate is currently in good standing.

III

At all times mentioned herein respondent has participated in the California Medical Assistance Program (sometimes referred to as "Medi-Cal") as a provider of service rendering the services of a licensed physician and surgeon to the persons deemed eligible to receive benefits under the Medi-Cal program. The Medi-Cal provider number assigned to respondent is OOC 172570.

IV

On or about April 13, 1976 an indictment was handed down against respondent in the United States District Court, Central District of California. Count One of that indictment alleged conspiracy to violate certain federal statutes regulating controlled substances, in itself a violation of 21 U.S.C. § 846. On or about June 7, 1976 following respondent's plea of guilty to Count One, respondent was convicted of violating 21 U.S.C. § 846 and was then placed on probation for three years. The offense to which respondent pleaded guilty and of which he was then convicted is a felony.

V

On or about the following dates respondent submitted the following service reports for the following individuals, listing as rendered the services described below:

<u>DATE</u>	<u>SERVICE REPORT NO.</u>	<u>RECIPIENT</u>	<u>SVCS. ALLEGEDLY RENDERED</u>	<u>AMT. BILLED TO MEDI-CAL</u>
5-30-75	9875 155067085	[REDACTED]	900020 - (Initial Office Visit) 71020 - (Chest X-ray) 85010 - (CBC) 90705 - (Bicillin CR)	\$65
5-30-75	9875 155067086	[REDACTED]	900020 - (Initial Office Visit) 85010 - (CBC) 87000 - (Stain Smear) 90705 - (Bicillin)	\$55

5-30-75 9875
155067086

[REDACTED] 90020 - (Initial \$94
Office Visit)
71020 - (Chest
X-ray)
93000 (EKG)
85010 (CBC)
90705 - (Bicillin
CR)
90705 - (ACTH)

In truth and fact respondent never saw or treated or examined said [REDACTED] or [REDACTED], as respondent well knew at the time he submitted the service reports described above to Medi-Cal. Respondent did see one Ed Voveris under the alias [REDACTED], but respondent did not administer a chest X-ray to said Voveris, or a CBC, or a Bicillin CR, nor did he perform any other medical or surgical technique.

VI

Respondent billed Medi-Cal for services allegedly rendered to the individuals set forth above, which services were not rendered, also as set forth above, and respondent was paid the following amounts for said services not rendered:

<u>NAME OF INDIVIDUAL</u>	<u>AMOUNT PAID</u>
[REDACTED]	\$28.70
[REDACTED]	44.35
[REDACTED]	78.08

VII

Additional evidence was introduced to prove the following:

A. Respondent is a native Californian born in 1928 and he is the father of five children, the elder two being enrolled in University of California at Los Angeles. He has resided with his wife and family at the same location since 1974.

B. Respondent earned his M.D. Degree in St. Louis University in 1954 and was first licensed in California in 1955 following a one year internship at Queen of Angels Hospital in Los Angeles. He was employed for one year as an emergency physician at St. Josephs Hospital, Burbank, following which he served for

two years in the United States Air Force at Mather Air Force Base, Sacramento, and was discharged honorably following this service. Thereafter, he was a pediatric resident at Queen of Angels for one year and following that he engaged in general practice at 1029 North Broadway, Los Angeles, from 1960 until 1976.

C. On June 7, 1976 respondent's three year probationary order included conditions that he not practice medicine for three years, such condition to be without limitation on any state procedures, and a prohibition of the possession of any controlled substances. A modification of condition by the Court on March 17, 1977 permits respondent "Upon the approval and supervision of his Probation Officer, to render voluntary non-compensated medical care on a voluntary basis to a community health or drug program under the direct supervision of a medical doctor. . . . Said defendant not in any way be involved in the handling, use or prescription of any type of drugs."

D. Under the modified probation order respondent has volunteered his services at Los Angeles Free Clinic for three hours on each Monday and Wednesday evening since April 1977 and there he sees thirty to forty patients each night. He also contributes his services on Wednesday from 9:30 a.m. to 4:30 p.m. at the Suicide Prevention and Methadone Treatment Center in Los Angeles.

E. Respondent suffered psychiatric difficulty from 1960 until 1976 from which he has recovered in the opinion of his treating physician.

* * * * *

Pursuant to the foregoing findings of fact, the following determination of issues is made:

I

The Director of the Department of Health may suspend a provider from further participation in the Medi-Cal program for violations of rules adopted under the authority of Section 14124.5,

Health and Safety Code of California, pursuant to the provisions of Section 14123 of said Code. Sections 51452 and 51453, Title 22, California Administrative Code are rules so adopted and authorize the suspension of a provider for violation of such rules.

II

By suffering conviction on a plea of guilty of a felony grounds for suspending respondent exist pursuant to the provisions of Sections 51458, Title 22, California Administrative Code.

III

As a provider respondent violated Section 51470(a), Title 22, California Administrative Code, by submitting claims for services not provided, constituting further grounds for the suspension of respondent.

IV

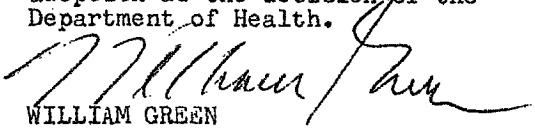
Respondent as a provider violated Section 51485, Title 22, California Administrative Code, by submitting false or misleading statements of material fact, constituting further grounds for the suspension of respondent.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Owen Kwong, M.D., Medi-Cal Provider No. OOC 172570, is suspended from participation as a provider in the California Medical Assistance Program on each cause for suspension determined, separately and severally, without prejudice to his petitioning for reinstatement when he is again legally qualified to act as a provider.

I hereby submit the foregoing which constitutes my Proposed Decision in the above-entitled matter, as a result of the hearing had before me on June 30, 1977, at Los Angeles, California, and recommend its adoption as the decision of the Department of Health.


WILLIAM GREEN
Administrative Law Judge
Office of Administrative Hearings

DATED: August 16, 1977
WG:mh